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SIPDIS

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NEA/IPA (J.GIAUQUE); USUN-NY FOR POL (E.GERMAIN)

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SUBJECT: UNGA DISCUSSION OF GOLDSTONE REPORT

REF: STATE 112828

Classified By: Acting POLE Counselor Chris Buck; reasons 1.4(b) and (d)

11. (C) Summary: The Swiss government has some understanding for USG concerns regarding the Goldstone Report and the resolution that will be discussed at the UN General Assembly on November 4. The Swiss, however, do not share all of these concerns, and generally have a sympathetic view of the Goldstone Report. According to Swiss Special Envoy for Middle East Affairs Jean-Daniel Ruch, Switzerland's approach to the Goldstone Report is predicated on a conviction that efforts to achieve peace in the Middle East do not fundamentally conflict with the pursuit of accountability and justice related to the fighting last winter in Gaza. According to Ruch, the Swiss government would be compelled to convene a conference of the high contracting parties of the Fourth Geneva Convention, if the UNGA resolution passes and includes a "mandate" to do so. However, in such case, the Swiss would want to proceed in two-step fashion, beginning with consultations and a report back to the UNGA, before seeking to convene a conference. Although acknowledging -- in careful measure -- some USG concerns, Ruch said that he did not expect the Swiss government would vote against the UNGA resolution as currently drafted. He said that a final decision had not yet been made, and did not entirely rule out an abstention, but the tenor of his comments suggested considerable sympathy for the current draft. Separately, the Liechtenstein Foreign Office suggested that USUN-NY contact counterparts at the Liechtenstein UN Mission in New York of a substantive response to the USG's message regarding the UNGA discussion and resolution. End Summary.

12. (SBU) In a November 3 meeting, acting POLE counselor emphasized reftel concerns to Ambassador Jean-Daniel Ruch, Special Envoy for Middle East Affairs at the Swiss Federal Department of Foreign Affairs. Also on November 3, A/POLE couns conveyed USG concerns separately to Andrea Hoch, UN Human Rights Affairs Officer, Foreign Office, Principality of Liechtenstein.

SWISS GENERALLY SYMPATHETIC TO GOLDSTONE REPORT

13. (C) Ambassador Ruch expressed some understanding for USG concerns regarding the Goldstone Report and the resolution that will be discussed at the UN General Assembly on November 4. He made clear, however, that the Swiss government does not share all of these concerns, and generally has a sympathetic view of the Goldstone Report. Ruch said that Judge Goldstone visited Switzerland two weeks ago, and during

that visit challenged his critics to identify specifically the flaws in the report. Ruch added that he personally would be interested in promoting such "dialogue" about the report, and inquired as to the source of the reftel point that the report contains allegations that the report's authors admit have not been fully corroborated. Ruch said that to his knowledge, Goldstone had made no such concession.

¶4. (C) Regarding USG concern that the Goldstone Report does not give sufficient weight to ongoing Israeli investigations, Ruch responded that it was regrettable that Israel chose not to cooperate with the Goldstone mission, arguing that, had the Israelis cooperated, they could have gotten more "credit" for those investigations. He also commented that major international human rights NGOs had expressed skepticism about the willingness of Israel to conduct thorough investigations, and that this skepticism had been reinforced by recent statements by some Israeli officials.

¶5. (C) Ruch underlined that the Swiss government appreciates the USG's efforts to promote a comprehensive peace in the Middle East. He noted that the GoS, via the Geneva Initiative and other efforts, is attempting to support this goal, while respecting the leading role played by the USG. Ruch maintained, however, that Switzerland's approach to the Goldstone Report is predicated on a conviction that efforts to achieve peace in this case do not fundamentally conflict with the pursuit of accountability and justice.

ELEMENTS OF THE RESOLUTION

¶6. (SBU) Ruch had a copy (dated November 2, 2009) of a draft UNGA resolution on the Goldstone Report; he provided A/POLE couns a copy of the draft, which post e-mailed to reftel POCs. The draft resolution that the Swiss are reviewing:

-- endorses the report of the UNHRC Special Session on the Goldstone Report;

-- calls on Israel and the "Palestinian side" to investigate the allegations in the Goldstone report within three months;

-- recommends that the Swiss government, in its capacity as depositary of the Fourth Geneva Convention, "undertake the necessary steps as soon as possible to reconvene a Conference of the High Contracting Parties to the Geneva Convention on measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem, and to ensure its respect in accordance with common article 1";

-- "requests the Secretary-General to report to the General Assembly, within a period of three months, on the implementation of the present resolution, with a view to considering further action."

¶7. (C) Referring to the draft, Ruch assessed that the text was more balanced than the resolution passed on October 16 in the UN Human Rights Council (UNHRC). He added that he expected that the sponsors of the resolution would respond very rigidly to any suggestions to edit the text, which he surmised already was the product of much "backroom" wrangling. Ruch had the following comments on the individual operative elements in the draft:

-- Endorsement of Goldstone Report: Seems difficult to avoid, as the UNHRC resolution endorsed the report with less balanced language. (Note: Ruch added that, although Switzerland is not currently on the UNHRC, Ruch personally worked very hard behind the scenes to try to promote a more balanced resolution text in October. End Note)

-- Call for Investigations: Switzerland would support, although the GoS agrees with USG concern that investigations cannot be time-bound. The GoS would like to see pressure put on the parties, however, to commence investigations. Switzerland also strictly supports the principle of complementarity, and does not believe that allegations should

be referred to other forums as long as the relevant national governments are conducting credible investigations. (Note: Ruch said that he had visited Gaza in October, and had the impression from his meetings there that Palestinians in Gaza could be convinced by international pressure to conduct investigations into the Goldstone allegations regarding them. End Note)

-- Fourth Geneva Convention: The Swiss government would be compelled to convene a conference of the high contracting parties, if the UNGA resolution passes and includes a "mandate" to do so. However, in such case, the Swiss would want to proceed in two-step fashion, beginning with consultations and a report back to the UNGA, before seeking to convene a conference. (Note: Ruch said that Switzerland was working to try to alter the draft resolution language, to clearly reflect a two-step process, having assessed that seeking to remove the operative paragraph entirely would be a non-starter with the resolution sponsors. He said that the GoS, in any case, would start with consultations, and emphasized that Switzerland would seek to consult early and intensively with the USG, if the resolution passes with this element in it. End Note) (Comment: Switzerland and the ICRC are co-hosting a conference in Geneva November 9-10 to mark the 60th anniversary of the Geneva Conventions. This raises the current profile of Convention issues in Switzerland, and will increase the scrutiny of the public and media regarding Swiss government decisions on Convention related issues. End Comment)

-- Report of the Secretary-General: Switzerland believes that having some form of ongoing UN monitoring of Israeli and Palestinian investigations into allegations of violations of human rights and international humanitarian law would be beneficial to all parties, arguing that it would increase the legitimacy of their efforts in the eyes of skeptics. Ensuring that the entity tasked with this monitoring is unbiased, however, would be essential. (Note: Ruch said that placing the UN Secretary General in this role offered a good option for obtaining an unbiased monitoring body. End Note)

COMMENT

¶8. (C) The Swiss have been sympathetic to the Goldstone mission since its inception, acknowledging imbalance in Goldstone's mandate, but willing to overlook that on the precarious assumption that the final product would overcome the cynical country group politics that gave rise to that unbalanced mandate. Since the Goldstone Report was released in September, Swiss officials tend to ascribe its principal flaws to Israel's refusal to cooperate with the mission.

¶9. (C) Although acknowledging -- in careful measure -- some USG concerns, Ruch said that he did not expect the Swiss government would vote against the UNGA resolution as currently drafted. He said that a final decision had not yet been made, and did not entirely rule out an abstention, but the tenor of his comments suggested considerable sympathy for the draft.

LIECHTENSTEIN'S UN MISSION HAS LEAD

¶10. (SBU) Hoch informed acting POLE couns that Liechtenstein's UN Mission has the lead in determining Vaduz's position on the UNGA resolution on the Goldstone Report. She therefore had not comment in substance, and suggested that U.S. colleagues in New York contact Liechtenstein counterparts directly for their reaction. Post will report any substantive information on this issue that we might yet obtain from Vaduz.
BEYER